

Present were: Anderson (Chair); Brown (Acting Clerk); Jeton (Member); Baime & Boness (Associate Members).

The meeting opened at 7:08 p.m.

Petition No.: 3952

Premises affected: 30 Shattuck Rd

Petitioner: Hanover

This is a continued 40B hearing. Attorney Carmine Tomas, of Goulston & Storrs, reviewed their responses to Board comments at the last meeting: revised the site plan, completed data collection for the sewer analysis (noting that the peer review consultant for the Town, Ben Osgood of Pennoni Associates, was present) and came up with a schedule. David Hall, of Hanover, reviewed the revised plan, which is the 4th iteration in response to the second IDR held in early June. The proposal now includes 248 units in 4 buildings each with 4 stories (an overall reduction), increased green space, & the addition of a tot lot. The bus stop will be on River Road since the school bus cannot enter Shattuck Road because it is a private way and the sidewalk from 30 Shattuck Rd to the bus stop has been approved by Boston Properties, owners of the abutting 40 Shattuck Rd. The Fire Prevention Lieutenant requested a turn in between buildings 1 & 4 and 2 & 3, thus decreasing the overall parking. Scott Doty, engineer, gave an overview of the sewer study data collection: in excess of 2 miles of sewer line with 60 man holes & 25 connections, as-built surveys for invert elevations, carrying capacity, and flows from Sept/Nov 2011 – August 2012 is complete. Data has been compared, video survey is done to examine structural & infiltration problems & peak flow is also done. The findings will be reported 7/13/12 to Ben Osgood including that there is an excess of capacity that can support the proposed project. They cleaned the system; finding little debris and little evidence of grease build up. There are some problems to be corrected along Shattuck Road and recommendations for repairs of serious infiltrations along River Rd and Rt 93 will be provided. Per Ben Osgood's recommendations, they will continue to monitor flows through the summer to supplement the report.

Boness asked for the change in overall unit count & the change in unit types. The original proposal included 288 units, and then was reduced to 264, up to 270, then down to the current 248 units. The 1 bedroom units comprised 55% of the unit types originally. Currently they are 61%, due to the end units being larger according to David Hall of Hanover. Boness asked if the excess sewer capacity can handle the development's flow. Scott Doty, engineer for Hanover, stated that it can. The board discussed the sewer system's gallons per day, infiltration including what percentage of flow it comprises, & actual vs. designed flow. Anderson requested recommendations for resolution and who will be responsible for the repairs as part of the final report. Doty agreed that they will be included in the report. Attorney Tomas clarified that the recommended fixes throughout the system will be included in the report and that Hanover will be prepared to address parts that it feeds into, but not beyond the Hanover line. Neither can they allocate who should fix it. Permission for access easement for the private sewer is included as well. Anderson pointed out that the proposed sidewalk along Shattuck Road will require a permitting easement. Tomas noted that it is part of the cross-easement with Boston Properties. The exact location of the bus stop on River Road has not been determined; however it will be a flat, safe spot on the West side of Shattuck Rd. Brown asked for a wider area for the bust stop so traffic flow will not be inhibited. Hall agreed to provide a wider area.

Ben Osgood, peer review consultant from Pennoni Associates, gave an update on the sewer analysis: in information gathering stage, met to review how data is being collected & preliminary discussions have taken place on repairs & categorizing video analysis, identifying & quantifying infiltration especially at the top of Shattuck Rd. Once the final report is submitted, he will review it in more depth. Anderson asked for an agreed set of conditions that will be easily understood and implemented as part of a potential approval. Osgood agreed, adding that methods of repair will be included. Bill Jones, of Linden Engineering, who has also been reviewing the data, requested participating in DPW talks. Anderson directed Hanover to inform the consultants when the DPW meeting will take place. Attorney Tomas agreed.

Tom Houston, of PSC, on behalf of Eisai, asked to address the town's long term planning interests and the project being inconsistent with said interests. Houston stated that affordable housing is better suited outside of the ID district and the proposal will negatively affect the non-residential abutters rendering them non-conforming. Planning for industrial

development outweighs the regional need for affordable housing and residential use is prohibited in the ID district. Houston cited the 2009 case from Middleborough in which the HAC ruled against the 40B due to it being in the middle of an industrial area. He will provide a copy to the Board.

Resident Susyn Lichtenberg asked about how the floor plan and square footage pertain to density. Hall noted the floor plans were submitted in the original packet and will be resubmitted on 7/13, but are virtually identical. Jeton pointed out that the density is three times the maximum density that MassHousing recommends. Tomas & Hall stated that it is within range at 23.8 units / acre (MassHousing recommended density is 25-70 units/acre).

Mark Vereau, a principal of Caruth Capital, owner of 20 Shattuck Road where Verizon is the tenant, voiced opposition based on the zoning intent of industrial parks. He voiced concern over the proposed walkway, impervious area, fire access, & the number of school-aged children who will live in such a project.

Jeff Mussman, attorney with Seyfarth & Shaw representing Eisai, spoke about the inappropriate use of this site for residential structures citing a case (Stuborne v. Barnstable). He also asked if there will be a permanent easement for the sidewalk.

Attorney Tomas confirmed that there will be.

Anderson asked for the Board's sense of whether the plan is in the ballpark of final approval. He then outlined what should be discussed at the next meeting: Hanover shall submit a proposed form of decision including conditions & waivers. For those in opposition, they may submit a proposed denial that's sustainable. Any draft must be presented to Judi Barrett, the Town's consultant, and the other side (for/against), so that Barrett will have the chance to weigh in on them. The sewer study needs to be finalized and a final IDR shall take place.

Jeton made a motion to continue the public hearing to August 8, 2012 at 7 pm either at the library or another location to be determined by the secretary. Brown seconded the motion & the Board voted (5-0) to continue the hearing to 8/8/12 at 7 pm in either the library or another location to be determined.

The Board then proceeded with the continued public hearing for Andover Apartments at Rolling Green.

Petition No.: 3956

Premises affected: 0 Lowell St & 0 Greenwood Rd

Petitioner: AA@RG

Attorney Mark Johnson was present on behalf of the applicant and gave an overview of the traffic/peer review including draft conditions, final floor plans, mitigation and the question of the 1 bedroom with loft/study remains a true 1 bedroom. Chair Anderson suggested discussing mitigation regarding features on the plans &/or traffic tonight, but to hold off on the other issues to discuss with Judi Barrett, the Town's consultant.

Traffic Engineer, Ken Cram, of Bayside Engineer, for the applicant reviewed the draft conditions. The three main issues include site access via the 24' wide road, off-site improvements (widen & design a left-turn lane at the Lovejoy/Greenwood/Rt 133 West intersection) and ADA sidewalks & crosswalks, transportation-land management (encourage carpooling, walking, expanding bus routes).

Steve Findlen, the Town's traffic peer review consultant from McMahon Associates, updated the Board: 16 mitigation issues were identified since the last hearing, reviewed and found to be acceptable to offset impacts. The Board discussed installing a traffic light at the shared project entrance on Rt 133 as well as off-site traffic improvements. Findlen stated the light's installation is warranted and the applicant has agreed to install it, as well as review the signalization at Lovejoy/Greenwood for left turns in 6-12 months. Baime asked why the applicant is discussing the signal installation with the IRS if they are installing it themselves. Attorney Manzi, also representing AA@RG, explained they his client is going forward with the plan to install the light once they found out that Congresswoman Tsongas intervened. The IRS/GSA met today and Brian Martin, from Tsongas' office, wants to meet next week. Brown requested that the proposed mitigation document reference the new IRS driveway across from the site driveway of 311 Lowell Street and the left turn signalization. Boness voiced concern over traffic movement coming off of Route 93 and no change in the Level of Service of F not changing, requesting the counts & synchro-analysis in the

report. Cram agreed to include the data in the report. Boness also requested a bike lane in the access road and asked for mitigation of increased resident traffic (vehicular & pedestrian).

Alexis Alicea, Lowell Street resident, questioned the Level of Service before and after creating a left turn lane on Rt. 133 voicing concern for his family's safety. Steve Findlen indicated that the changes to the intersection include Mr. Alicea's lot. The Board discussed possible alternative egress for Alicea's lot. Cram noted that the minor widening for the left turn lane of 3-4' will start after Alicea's driveway & that it shouldn't affect ingress/egress to his lot. Anderson suggested that Mr. Alicea contact the applicant directly for a win-win resolution, possibly fencing, vegetative barrier, or reorientation of his driveway. Johnson noted that the Windsor Green Apartment's original decision called for the same mitigation. No one was present on behalf of Windsor Green to discuss this matter.

Johnson submitted a memo to the Board dated 6-26-12.

Attorney Manzi gave an overview of the floor plans for the one bedroom units, the one bedroom units with loft (that will be only on the 4th floor outside wall units) and the one bedroom with study units. They have drafted lease language that any tenant must agree with the management company that any rental agreement will not be able to convert a non-sleeping area to a sleeping area, and the lease will allow unannounced inspections to ensure that no additional bedrooms are created, are subject to eviction if additional sleeping area is created, and reported to the Town by July 1st annually. Brown explained how physical changes to the one bedroom units would eradicate his concerns about one bedroom conversions. Johnson explained that the additional living space is an amenity from a marketing standpoint and that no other projects restrict the use. However, his client is willing to accept it as a condition of approval. Brown emphasized that the loft units need to be proportioned into the affordable unit mix. Manzi agreed that they will be.

Attorney Johnson addressed his memo dated 6-26-12 regarding traffic mitigation: a water easement will be provided to the Town for water quality & flood control, stormwater from IRS & Lowell Street drains onto the site property will be picked up, treated & discharged, including a proposed design & easement for the Town to use at its discretion. Anderson noted that the propose form of easement is not in the package. Johnson will prepare it after discussing it with the Board.

Attorney Johnson reviewed the Greenwood Road access restriction; relinquishing rights to use Greenwood Road (the plan was submitted). Anderson verified that no traffic access is allowed, but it is an exclusive easement for the Town. Johnson confirmed this adding that the location of pedestrian access is still under design. Anderson inquired if Parcel B on the plan is open space deeded to the Town. Johnson confirmed that it is. Ray Cormier, a principal of AA@RG, clarified that the pedestrian access to the 50' right of way to the open space for the general public is part of the Bay Circuit Trail, not intended for pedestrian access to Greenwood Road or Lovejoy Road. The scope of the easement is for utilities & pedestrians. Attorney Johnson will draft & forward to Town Counsel the easement for Parcel B, which will be deeded to the Town as open space with no preference as to the grantee.

The Board then discussed restricting the project to rental with no option for future conversion to ownership. Manzi informed the Board, in response to an earlier question, that ¼ of the units will have a loft: 30 1-bedroom units, 17 2-bedroom units, and 6 3-bedroom units.

Fran Fink, Commissioner for the Andover Conservation Commission, spoke about the proposed water quality treatment facility in Zone 1 Priority Zone & the off-site improvements that are jurisdictional under storm water management. Mr. Cormier emphasized that the Town can conduct such work in Zone A for water quality. Anderson asked for an update on the Notice of Intent (NOI) meeting. Fink informed the Board that the hearing was opened last Tuesday (6/19/12) and was continued to a date uncertain.

Attorney Johnson summarized open issues: updated waiver list, meeting with Judi Barrett re: draft decision & final IDR. Chair Anderson added an additional meeting with Conservation Commission, giving them the waiver list especially related to the wetland bylaw so that Conservation Commission can give the ZBA recommended conditions.

Alix Driscoll, Andover Conservation Commission Commissioner, commented on Parcel B (the Evelyn Axelrod Woodlands) & public access thereto, typically by marked trail. Chair Anderson asked that Conservation Commission discuss accepting the deed, the trail & the access prior to the next ZBA meeting. If Conservation Commission wants it, they should work out the deed.

Anderson asked Attorney Johnson & Mr. Cormier to discuss a sidewalk from Rolling Green through Windsor Green to Rt. 133. Johnson & Cormier agreed.

Resident Susyn Lichtenburg asked if a pro forma will be submitted. Anderson explained that unless the ZBA comes upon an issue with a waiver, they won't get a pro forma.

Alex Alicea asked for the Board's feeling on the lofts. Anderson polled the Board. 3 out of 5 were in favor of the lofts.

Brown made a motion to continue the public hearing to 8/8/12 at 7 pm in the library or another location to be determined.

Baime seconded the motion and the Board voted (5-0) to continue the hearing to 8/8/12.

The Board then took up the request to withdraw without prejudice Application No. 3986 – 89 Main St – Fisichelli's Pastry Shop, Inc. heard at the May 3, 2012 meeting. Jeton made a motion to withdraw the application without prejudice and to vacate the vote to approve the requested special permit. Brown seconded the motion & the Board voted (3-0) (Brown, Jeton & Anderson) to withdraw without prejudice and to vacate the vote to approve the requested variance (No. 3986).

The Board then adjourned the meeting at 10:07 p.m.